

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

PLT
23589

FILE: B-209622 **DATE:** November 15, 1982
MATTER OF: Sundance Helicopters

DIGEST:

1. A responsive bidder's ability to meet the agency's performance needs is a matter of responsibility, and GAO will not review an affirmative responsibility determination unless fraud on the part of procuring officials is shown or the solicitation contains definitive responsibility criteria which allegedly were not applied.
2. Whether an awardee actually conforms to contract requirements during performance is a matter of contract administration which GAO does not review.

Sundance Helicopters protests any award of a contract to an operator using single-engine aircraft under Immigration & Naturalization Service invitation for bids (IFB) STP-5-83 for air taxi service. Sundance Helicopters contends that any operator using single-engine aircraft will not be able to meet the IFB's performance requirements under all prospective flying conditions. We dismiss the protest.

Sundance Helicopter does not suggest that the specifications expressly require that the operator awarded the contract use multi-engine aircraft. The firm argues, however, that the awardee would in fact have to use multi-engine aircraft to ensure conformance, as the specifications require, to the Instrument Flight Rules (IFR) of the Federal Aviation Administration.

Since a bidder did not need to specify in the bid the type of aircraft it would use, the submission of a signed and otherwise responsive bid constituted an offer to meet the agency's needs as described in the solicitation at the bid price. See Patterson Pump Company, B-204694, March 24, 1982, 82-1 CPD 279.

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Whether a bidder can meet its legal obligation to do so if its bid is accepted is a matter of responsibility, and we do not review protests against affirmative determinations of responsibility unless either fraud is shown on the part of procuring officials or the solicitation contains definitive responsibility criteria which allegedly have not been applied.

King-Fisher Company, B-205003, June 16, 1982, 82-1 CPD 592.

Sundance Helicopters does not allege fraud. Also, the IFB does not contain a definitive responsibility criterion. Definitive responsibility criteria are standards established by an agency for a particular procurement to measure an offeror's ability to perform the contract, and which limit the class of prospective contractors to firms meeting the specified qualitative and quantitative qualifications deemed necessary for adequate contract performance. Proficiency Associates, Inc., B-198844.3, January 19, 1981, 81-1 CPD 29.

Finally, whether the contractor in fact conforms to contract requirements is a matter of contract administration, which is the responsibility of the procuring agency, not this Office. Ellsworth Street Associates, B-207292, B-207293, June 2, 1982, 82-1 CPD 528.

The protest is dismissed.

Harry R. Van Cleve

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Acting General Counsel